

January 26, 2018

Mr. Henry Leskinen
Eco-Science Professionals, Inc.
P O Box 5006
Glen Arm, Maryland 21057

Re: Glaser Property
Forest Conservation Variance
Tracking # 05-18-2636

Dear Mr. Leskinen:

A request for a variance from the Baltimore County Code Article 33, Title 6 Forest Conservation was received by this Department of Environmental Protection and Sustainability (EPS) on January 3, 2018. This request proposes to remove two of the three specimen trees on site for the creation of a three lot subdivision. The site has no improvements. There is no floodplain. The applicant proposes to clear 1.0 acres of forest and two of the three specimen trees on site; there are 2.1 acres of forest on site. The clearing proposed is for the construction of 3 dwellings, an access driveway, and associated infrastructure. Forest retention on site exceeds the break-even point, according to the forest conservation worksheet, and includes all of the forest buffer.

The on-site forest is part of a larger offsite forested corridor along an unnamed tributary to White Marsh Run. Most of the property is forested, and there are three specimen trees within the forest. The southernmost forest is in good condition and a high priority for retention. The forest in the central portion of the property is not in good condition and is not a priority for retention. The only existing sewer connection is through the high priority forested portion of the property. Access can only occur at the opposite end of the site where it abuts an existing road. Clearing will consist of the all of the central forest and a portion of the high priority forest, including the two specimen trees. All forest proposed to remain is high priority for retention. As a result, the forest retention investigation report included with the variance request is approved.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and

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all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of beneficial use of his property. A dwelling could be put on site without impacting the specimen trees and thus would not deprive the petitioner of beneficial use of his property. Therefore, we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. The site contains three specimen trees in the middle of the property. The forest and forest buffer at the southernmost end of the site are to be placed in an easement. The two specimen trees are proposed for removal because their location presents difficulties in developing the site. The driveway access and existing sewer line are at opposite ends of the property, and these trees are in the middle. The sewer line connection enters through the priority forest. The neighborhood is already developed, and therefore the circumstances here are unique and not related to the conditions of the neighborhood. Therefore, we find the second criterion has been met.

The third criterion (Subsection 33-6-116(d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The property is surrounded by similar residential development. The proposal to remove two specimen trees as part of the proposed subdivision of the site will not change the character of the neighborhood. Therefore, we find that this criterion has been met.

The fourth criterion (Subsection 33-6-116(e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. The new construction will meet all sediment and erosion control requirements during construction. No wetlands or wetland buffers will be impacted by the subdivision. Therefore, we find that granting of the special variance will not adversely affect water quality, and that this criterion has been met.

The fifth criterion (Subsection 33-6-116(e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has not removed the specimen trees. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the

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spirit and intent of Article 33 of the Baltimore County Code. Although the specimen trees are within an existing forest, the amount of retained forest exceeds the required amount. Moreover, the forest of highest priority for retention would be retained. Therefore, this criterion has been met.

Based on our review, this Department finds that all of the required criteria have been met. Therefore, the variance request is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code contingent with the following condition:

Add the following note to all plans for this project: "A Forest Conservation Special Variance was approved by the Baltimore County Department of Environmental Protection and Sustainability to allow the removal of two specimen trees."

It is the intent of this Department to approve this variance subject to the above condition. Any changes to site layout may require submittal of revised plans and an amended variance request.

If you have any questions regarding this correspondence, please call Ms. Regina Esslinger at (410) 887-3980.

Sincerely yours,

David V. Lykens
Deputy Director

DVL/rae